



# Journal of the House

State of Indiana

114th General Assembly

First Regular Session

Fourth Meeting Day

Monday Morning

January 10, 2005

## JOINT CONVENTION

The President Pro Tempore of the Senate, Senator Robert D. Garton, called the joint convention to order at 9:30 a.m. and addressed the members as follows:

"Members of the Joint Convention: The two Houses of the General Assembly have convened in Joint Convention in order to publish the returns of the election for Governor and Lieutenant Governor held on November 2, 2004."

The President Pro Tempore yielded the gavel to Speaker Brian C. Bosma who addressed the members as follows:

"Members of the Joint Convention: In accordance with the law, IC 3-12-5-5, the Indiana Elections Division has prepared and delivered to the Speaker of the House of Representatives a statement of the number of votes received by each candidate for the office of Governor and Lieutenant Governor at the general election held on November 2, 2004. The votes cast in each of the 92 counties have been totaled and show the following:

For Mitchell E. Daniels, Jr. and Rebecca S. Skillman	1,302,912
For Joseph E. Kernan and Katherine L. Davis	1,113,900
For Kenn Gividen and Elaine Badnarik	31,664
For Velko Kapetanov	22

Mitchell E. Daniels, Jr. and Rebecca S. Skillman received the highest number of votes cast for the offices of Governor and Lieutenant Governor, respectively. By virtue of the powers vested in the office of the Speaker of the House of Representatives, I hereby declare and certify in the presence of both Houses and before the public that Mitchell E. Daniels, Jr. was duly elected Governor of the State of Indiana and Rebecca S. Skillman was duly elected Lieutenant Governor of the State of Indiana for a term of four years beginning on Monday, January 10, 2005.

This announcement shall be deemed a sufficient declaration of the persons elected Governor and Lieutenant Governor and shall be entered, with a list of the votes, in the Journals of the House of Representatives and the Senate."

## COUNTY REPORT OF VOTES CAST FOR GOVERNOR AND LIEUTENANT GOVERNOR

	Republican Party Daniels Skillman	Democratic Party Kernan Davis	Libertarian Party Gividen Badnarik	Write-In Kapetanov
Adams	8,350	4,816	99	0
Allen	73,689	53,899	1,183	0
Bartholomew	16,858	11,008	519	1
Benton	2,432	1,498	69	0
Blackford	2,741	2,567	46	0
Boone	16,189	6,326	305	0
Brown	4,010	3,118	164	0
Carroll	5,090	3,387	115	0
Cass	7,946	5,808	221	0

Clark	20,471	20,964	360	0
Clay	5,724	4,677	148	0
Clinton	7,537	4,129	148	0
Crawford	2,231	2,231	60	0
Daviess	6,223	4,049	183	4
Dearborn	12,514	7,573	297	0
Decatur	6,355	3,524	140	0
Dekalb	9,242	6,012	181	2
Delaware	22,917	24,132	663	0
Dubois	9,385	6,871	169	0
Elkhart	38,430	22,406	503	0
Fayette	4,981	4,224	121	0
Floyd	16,869	16,503	279	0
Fountain	4,786	2,878	101	0
Franklin	5,822	3,862	114	0
Fulton	5,103	3,513	110	0
Gibson	7,289	7,101	166	0
Grant	15,543	11,376	275	0
Greene	6,791	6,123	213	0
Hamilton	76,433	27,316	920	1
Hancock	18,825	8,746	359	0
Harrison	9,242	7,809	171	0
Hendricks	35,761	15,691	641	0
Henry	11,408	8,674	289	0
Howard	19,885	16,742	415	0
Huntington	10,484	4,953	183	0
Jackson	9,587	6,527	191	0
Jasper	6,781	4,701	167	1
Jay	4,537	3,453	80	0
Jefferson	6,542	6,109	150	0
Jennings	5,806	4,482	190	0
Johnson	34,269	16,253	701	1
Knox	7,569	7,797	228	0
Kosciusko	20,047	7,885	316	0
LaGrange	5,748	3,171	97	0
Lake	61,720	118,697	2,617	2
LaPorte	16,234	25,049	881	0
Lawrence	11,480	5,904	257	0
Madison	28,142	25,972	623	0
Marion	148,825	167,097	3,895	0
Marshall	10,745	6,756	204	0
Martin	2,664	2,205	94	0
Miami	8,155	5,062	179	0
Monroe	22,031	26,317	1,192	0
Montgomery	9,639	4,711	199	0
Morgan	16,716	8,740	424	0
Newton	3,164	2,531	111	0
Noble	9,570	5,863	176	0
Ohio	1,512	1,328	41	0
Orange	4,818	3,621	109	0
Owen	4,179	3,249	176	0
Parke	3,745	3,101	108	0
Perry	3,559	4,640	64	0
Pike	2,517	3,510	99	0
Porter	27,565	35,206	1,108	0
Posey	6,252	5,525	109	0
Pulaski	3,185	2,267	61	1
Putnam	8,002	4,984	185	0
Randolph	6,274	4,628	146	0

Ripley	6,925	4,635	151	0
Rush	4,529	2,676	116	0
Scott	3,862	4,681	90	0
Shelby	9,862	5,885	194	0
Spencer	5,183	4,612	114	0
St. Joseph	49,198	58,327	1,000	1
Starke	4,024	4,539	131	0
Steuben	7,684	4,915	165	1
Sullivan	3,687	4,530	116	0
Switzerland	1,780	1,780	48	0
Tipppecanoe	28,458	22,504	865	0
Tipton	4,729	2,973	108	0
Union	2,040	1,217	59	0
Vanderburgh	34,129	34,819	863	6
Vermillion	2,769	4,121	118	0
Vigo	16,804	22,054	806	0
Wabash	8,691	4,569	134	0
Warren	2,214	1,679	58	0
Warrick	13,877	11,678	262	0
Washington	6,419	4,297	134	0
Wayne	14,530	12,565	595	0
Wells	8,071	3,979	113	0
White	5,980	4,260	167	1
Whitley	8,332	4,758	149	0
<b>TOTAL</b>	<b>1,302,912</b>	<b>1,113,900</b>	<b>31664</b>	<b>22</b>

### Joint Convention Resolution 1

Representative Friend introduced Joint Convention Resolution 1:

A JOINT CONVENTION RESOLUTION to appoint a committee to wait upon the Governor and Lieutenant Governor.

*Be it resolved:*

SECTION 1. That a committee consisting of four members of the House, to be appointed by the Speaker, and four members of the Senate, to be appointed by the President Pro Tempore, to wait upon Mitchell E. Daniels Jr., Governor-elect, and Rebecca S. Skillman, Lieutenant Governor-elect, respectively, to inform them that they have been elected Governor and Lieutenant Governor, to ascertain from them at what time it will be convenient for them to take the oath of office, and to report thereon to the two Houses of the General Assembly; and when the joint convention for the administration of the oath of office is assembled, the committee hereby created shall conduct the duly elected Governor and the Lieutenant Governor to the inaugural ceremonies at the Pepsi Coliseum at the Indiana State Fairgrounds for the administration of the oath of office.

The resolution was read a first time and adopted by voice vote. The Speaker appointed Representatives Messer, Murphy, Hoy, and Micon. The President Pro Tempore appointed Senators Clark, Lubbers, Howard, and L. Lutz.

### COMMITTEE REPORT

Mr. Speaker: Your committee, appointed to wait upon Mitchell E. Daniels, Jr., and Rebecca S. Skillman, to inform them that they have been declared duly elected Governor and Lieutenant Governor, respectively, and to ascertain from them at what time it will be convenient for them to take the oath of office as prescribed in Article 15, Section 4 of the Constitution of the State of Indiana, hereby reports that it has discharged the duties assigned to it and that the duly elected Governor and Lieutenant Governor will take the oath of office and enter upon the discharge of their duties at 11:00 a.m. on January 10, 2005.

MESSER  
MURPHY  
HOY  
MICON

Committee of the House

CLARK  
LUBBERS  
HOWARD  
L. LUTZ

Committee of the Senate

The joint convention recessed for the purpose of attending the inaugural ceremonies.

### INAUGURAL CEREMONIES

The oath of office was administered to the Lieutenant Governor-elect by Chief Justice Shepard, which oath is as follows:

"I, Rebecca S. Skillman, do solemnly swear that I will support the Constitution of the United States and the Constitution of the State of Indiana, and that I will faithfully and impartially discharge my duties as Lieutenant Governor of the State of Indiana to the best of my skill and ability, so help me God."

The oath of office was administered to the Governor-elect by Chief Justice Shepard, which oath is as follows:

"I, Mitchell E. Daniels, Jr., do solemnly swear that I will support the Constitution of the United States and the Constitution of the State of Indiana, and that I will faithfully and impartially discharge my duties as Governor of the State of Indiana to the best of my skill and ability, so help me God."

Upon assuming his office, Governor Daniels made the following remarks:

### INAUGURAL REMARKS OF GOVERNOR MITCHELL E. DANIELS, JR.

"Mr. Chief Justice, Sen. Lugar, friends and neighbors:

How simple those words. How familiar these rituals. How natural we find the transfer of authority over the affairs of our state.

How routine, how undramatic the process has been. No shots were fired, no barricades were stormed, no blood was spilled. While in one country a half a world away, people must refight the contest for office after a subverted election, and, in another, people die daily at the hands of those who would kill to prevent a free election from ever being held in the first place.

It is not just the young people of Indiana, watching this ceremony in thousands of classrooms, who take all this for granted, as the natural state of human affairs. All of us in this most blessed of nations have long been bound by, in Lincoln's words, the mystic chords of memory, to the notion that power derives solely from the will of free and equal people, and that power passes peacefully and only by the consent of the governed.

We Hoosiers have marked this passage now forty-eight times before. No wonder we view it so matter-of-factly. But I venture to say that no one receiving the temporary tenancy of the people's leadership ever inherited it from a predecessor of greater good humor or warmth of spirit than the man who tenders it to me today. Governor Joe Kernan, thanks to you and Maggie on behalf of the grateful state you have served so long and so devotedly.

And now, we citizens of the nineteenth state commence our forty-ninth chapter together. For the governed to give their consent fully, they must know full well what they are agreeing to. I hope it is fair to say that the people of Indiana knew what they were choosing, and knew whom, as I have always seen it, they were hiring, when they met in council on November 2nd.

We offered ourselves as people of change. We urged our fellow citizens to aim higher, to expect more from our state government, but also from our schools, our businesses and, ultimately, from ourselves. We tried to hold up the prospect of an era in which we would leave behind old arguments for new solutions, provincialism for unified purpose, timidity and caution for boldness and even risk-taking, all with the goal of restoring our state as a place of prosperity and promise.

We said plainly what kind of change we would bring. The policies we will pursue have been in full view for months. When I leave here today I will sign executive orders making the first of those changes, effective immediately. On arrival at the people's house, I will personally deliver those of our proposals that require legislative approval to our new partners in the Indiana General Assembly.

And, eight days from tonight, I will propose, as a part of my State of the State presentation, approaches to the fiscal emergency in which we enter Chapter 49. We will waste no energy assigning blame for this crisis, and we must waste no time in addressing it. Our actions must be bold, because the problem is huge. They must touch every individual and interest, because they must be fair, and adequate to the challenge at hand.

If we overestimate the task, it means we have underestimated ourselves. When we think of the crises that free peoples before us have rallied to meet, we should gather confidence, and a sense of proportion, about the smaller assignment history has given us in our day. The job ahead may loom large to us, fortunate as we are to live in an age of unprecedented affluence and safety.

But this isn't Britain at Dunkirk. This isn't a newborn nation at Valley Forge. I do not face what Oliver Morton did when he stood on the Capitol steps and summoned a divided state to stand strongly for union and against slavery. When we note what our predecessors overcame in their day, we should be ashamed if we hesitate, sheepish if we pull up short.

When asked to explain America's victory over the dictators in World War II, Gen. George Marshall said, "We had a secret weapon. The best damned kids in the world." Against the relatively manageable obstacles we face, we have a weapon, and it's no secret. We have the quiet resilience of spirit the world has always associated with the term "Hoosier."

In the seats of honor at this ceremony are the VIPs of this weekend, people I met and came to know during my 16-month interview for the job I undertake today. They come from the largest of our cities, from the tiniest of our towns, and from the rural spaces in between. I love them as individuals, but I love equally the way in which they personify the qualities which, if called forth now, will surely carry us over our current difficulties and back to greatness as a state.

Kathy Bond's over there. Eking out a living carving lawn statues out in Modoc, she somehow found a way to take in a friend, stricken with fatal cancer, who had nowhere to go. Dr. Mark Graves is here from Evansville, where at his own expense he and his son devised a computer program that is enabling low-income patients to cut their drug costs from hundreds to a few dollars a month. And Rich Neuberg, who, when he's not organizing charity walks for breast cancer research, is giving discounts in his diner up in Knox for every dollar a customer spends at a local store. And Tom Anton, the longtime Purdue professor from Schererville, whom I tripped over enjoying his retirement by teaching a seventeen-year-old inner-city kid to read for the first time. Our greatest strengths reside where they always have.

I have often observed that, among our many special assets, Hoosiers are really good at rebuilding things. Engines, transmissions, airplanes, and buildings as large as the Pentagon - when something needs fixing, we just get about the chore.

And we are wired to help each other. We've been doing it for 188 years now. When trouble came, and it came often, our forefathers didn't use words like "sacrifice." And they certainly didn't divide into little groups and demand to be excused from taking part.

When there was storm damage to repair or a new barn to raise, everybody found a way to pitch in. Those who could handle a hammer or an axe, did; those who could afford to contribute a little extra for the materials, chipped in; those who could only bring a dish, brought it. Kids carried nails, old folks dispensed lemonade and sage advice, and nobody, nobody stayed home.

It's time to raise a new barn in Indiana, a new, stronger structure to house new tools and to make possible far richer future harvests. We will need the whole community to show up. As a government, we will do all that is possible to clear the path for new jobs and investment, but our businesses must take the risks from which alone new wealth comes.

We will spend the tax dollars of Hoosiers whenever possible inside our state, but our corporations must do likewise, and our universities

must also use every opportunity to help the neighbors whose tax dollars support them.

Our utilities, granted special privileges by the nature of their product, must commit themselves to helping us attract new business. Those to whom life in Indiana has been the most kind must be willing to give back in accordance with their good fortune. And every interest group, of every kind and cause, must resolve to demand a little less, relent a little more often, if we are going to get the new barn up with the limited resources on hand.

Let's nobody sit home. Every parent who checks homework or reads to a child is lifting a bigger hammer than they may realize. Every person who volunteers at a free clinic, a food bank, a nursing home is putting a plank in place. Every young person who studies a little harder or signs up for a tougher course is driving a nail. Every citizen who stops smoking, or loses a few pounds, or starts managing his chronic disease with real diligence, is caulking a crack for the benefit of us all.

The young people of Indiana are watching us today, whether their classroom is tuned in or not. I know, from having met thousands of them, in their schools, at their games, and on the streets of their towns, that they love this state, and overwhelmingly they hope to make it their home as adults. Over and over, they have told me in identical words: "I want to stay, but..."

They are watching now to see whether we who are already adults will behave like it. Whether we have a fraction the fortitude our ancestors had in such abundance. Whether we will rebuild the barn, pay our debts, and leave the family business strong, so that they can carry it on and pay the bills when their turn comes.

When we meet again in eight days, I will lay out a design for our new community rebuilding project. I will suggest the roles each of us can undertake. I will urge that our purpose be bold, that if we err, we err on the side of action, of movement, of experiment. And that our aim be high. It's been said that every great achievement was first a dream; cathedrals are not brought into being by skeptics.

Neither are great barns.

En route to Philadelphia in 1776, to put his life, his fortune and his sacred honor all at risk, John Adams wrote in his diary that it was all well worth it because, he said "Great things are wanted to be done." And so with us. Our lives are not at risk. We face much toil and sweat, but no blood and, one hopes, no tears. But, in our day, Adams' excitement, and Churchill's iron resolve, should be our own: Great things are there to be done.

This is our moment. Our children are watching, and so too are those who came before us. They would not recognize our problems as daunting. They'd say "Wipe your nose. Let's get to work."

Good advice. I thank you for your presence today. For the love of our state that it demonstrates. For the confidence and the opportunity you have invested in me and in those who have stepped forward to join our reconstruction crew.

We know our assignment; we will spare no effort; we ask only that you join us, each in your own best way, in rebuilding an edifice of excellence in which a great Hoosier future can be housed.

And now if you will excuse me, I have to get to work."

The joint convention reconvened at 1:25 p.m. President Pro Tempore Garton announced that the purpose for the joint convention had been accomplished. The joint convention adjourned

## MEETING OF THE HOUSE OF REPRESENTATIVES

The House convened at 2:00 p.m. with the Speaker in the Chair.

The invocation was offered by Representative P. Eric Turner.

The Pledge of Allegiance to the Flag was led by Representative Chester F. Dobis.

The Speaker ordered the roll of the House to be called:

T. Adams	Klinker
Aguilera ☐	Koch
Alderman	Kromkowski
Austin	Kuzman
Avery	L. Lawson
Ayres	Lehe
Bardon	Leonard
Bauer	J. Lutz
Becker	Mahern
Behning	Mays
Bischoff	McClain
Borders	Messer
Borror	Micon
Bottorff	Moses
Bright	Murphy
C. Brown	Neese
T. Brown	Noe
Buck	Orentlicher
Budak	Oxley
Buell	Pelath
Burton	Pflum
Cheney	Pierce
Cherry	Pond
Cochran	Porter
Crawford	Reske
Crooks	Richardson
Davis	Ripley
Day	Robertson
Denbo	Ruppel
Dickinson	Saunders
Dobis	J. Smith
Dodge	V. Smith
Duncan	Stevenson ☐
Dvorak	Stilwell
Espich	Stutzman
Foley	Summers
Friend	Thomas
Frizzell	Thompson
Fry	Tincher
GiaQuinta	Torr
Goodin	Turner
Grubb	Ulmer
Gutwein	VanHaaften
E. Harris	Walorski
T. Harris	Welch
Heim	Whetstone
Hinkle	Wolkins
Hoffman	Woodruff
Hoy	Yount
Kersey	Mr. Speaker

Roll Call 4: 98 present; 2 excused. The Speaker announced a quorum in attendance. [NOTE: ☐ indicates those who were excused.]

With consent of the members, the House took up bills on third reading.

## ENGROSSED HOUSE BILLS ON THIRD READING

### Engrossed House Bill 1021

Representative Burton called down Engrossed House Bill 1021 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning trade regulation and consumer credit.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 5: yeas 97, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill. Senate sponsor: Senator Bray.

The House recessed until the fall of the gavel.

## RECESS

The House reconvened at 3:45 p.m. with the Speaker in the Chair.

Representative Goodin was excused for the rest of the day.

## HOUSE MOTION

Mr. Speaker: I move that when we do adjourn, we adjourn until Tuesday, January 11, 2005 at 1:30 p.m.

TURNER

Motion prevailed.

## REPORTS FROM COMMITTEES

### COMMITTEE REPORT

Mr. Speaker: Your Committee on Roads and Transportation, to which was referred House Bill 1029, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 10, nays 1.

DUNCAN, Chair

Report adopted.

## HOUSE BILLS ON SECOND READING

### House Bill 1083

Representative Murphy called down House Bill 1083 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

### House Bill 1004

Representative Turner called down House Bill 1004 for second reading. The bill was read a second time by title.

### HOUSE MOTION (Amendment 1004-1)

Mr. Speaker: I move that House Bill 1004 be amended to read as follows:

Page 2, line 5, delete "that has been reduced to a judgment against the taxpayer" and insert "**for which the department has issued a final determination that has been affirmed in the case decided by the tax court and denied transfer to the state supreme court**".

Page 2, line 6, delete "in an order issued by a trial court".  
(Reference is to HB 1004 as printed January 7, 2005.)

TURNER

Motion prevailed.

### HOUSE MOTION (Amendment 1004-5)

Mr. Speaker: I move that House Bill 1004 be amended to read as follows:

Page 2, line 20, after "taxpayer" insert ", **entry into an agreement that the taxpayer is not eligible for any other amnesty program that may be established and waives any part of interest and penalties on the same type of listed tax that is being granted amnesty in the current amnesty program,**".

Page 3, line 1, after "." insert "**The department shall enforce an agreement with a taxpayer that prohibits the taxpayer from receiving amnesty in another amnesty program.**".  
(Reference is to HB 1004 as printed January 7, 2005.)

WELCH

Motion prevailed.

### HOUSE MOTION (Amendment 1004-3)

Mr. Speaker: I move that House Bill 1004 be amended to read as follows:

Page 2, line 3, after "2004." insert **"A tax liability of a corporation or other business entity, including a tax liability for listed taxes that the corporation or business entity has withheld or collected and failed to remit, is ineligible for the amnesty program."**

(Reference is to HB 1004 as printed January 7, 2004.)

CRAWFORD

Upon request of Representatives Crawford and Bardon, the Speaker ordered the roll of the House to be called. Roll Call 6: yeas 42, nays 53. Motion failed.

HOUSE MOTION  
(Amendment 1004-2)

Mr. Speaker: I move that House Bill 1004 be amended to read as follows:

Page 2, line 3, after "2004." insert **"A tax liability for a listed tax that arises as a result of a failure to remit a listed tax that is required by law to be held in trust for or withheld or collected as an agent of the department is ineligible for the amnesty program."**

(Reference is to HB 1004 as printed January 7, 2004.)

CRAWFORD

Upon request of Representatives Crawford and Bardon, the Speaker ordered the roll of the House to be called. Roll Call 7: yeas 45, nays 49. Motion failed.

HOUSE MOTION  
(Amendment 1004-4)

Mr. Speaker: I move that House Bill 1004 be amended to read as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

**"SECTION 1. IC 6-8.1-1-9 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 9. "Political subdivision" has the meaning set forth in IC 36-1-2-13."**

Page 5, between lines 8 and 9, begin a new paragraph and insert:

**"SECTION 5. IC 6-8.1-10-13 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 13. (a) Except as provided in subsection (b), all penalties and interest imposed under this chapter and received by the department shall be retained by the state.**

**(b) The department shall transfer penalties and interest received by the department for a listed tax that is:**

- (1) imposed by a political subdivision; or**
- (2) required by law to be distributed to a political subdivision;**

**to the treasurer of state for deposit in the account established under section 14 of this chapter for the political subdivision.**

**SECTION 6. IC 6-8.1-10-14 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 14. (a) The treasurer of state shall establish a separate account within the state general fund for each political subdivision that:**

- (1) imposes a listed tax; or**
- (2) is entitled to a distribution of the proceeds of a listed tax.**

**(b) The treasurer of state shall deposit all penalties and interest transferred under section 13(b) of this chapter in the account of the appropriate political subdivision.**

**(c) The treasurer of state shall distribute the money deposited in a political subdivision's account in the preceding calendar year to the political subdivision before January 15.**

**SECTION 7. [EFFECTIVE JULY 1, 2005] IC 6-8.1-10-13 and IC 6-8.1-10-14, both as added by this act, apply to penalties and interest received by the department of state revenue after June 30, 2005."**

Renumber all SECTIONS consecutively.

(Reference is to HB 1004 as printed January 7, 2005.)

CRAWFORD

Upon request of Representatives Crawford and Bardon, the Speaker ordered the roll of the House to be called. Roll Call 8: yeas 45, nays 50. Motion failed.

HOUSE MOTION  
(Amendment 1004-6)

Mr. Speaker: I move that House Bill 1004 be amended to read as follows:

Page 2, line 1, after "(c)" insert **"As used in this subsection, "tax delinquent" means a person liable for the payment of taxes."**

Page 2, line 1, delete "amnesty" and insert **"evasion"**.

Page 2, line 2, delete "taxpayers" and insert **"tax delinquents"**.

Page 2, line 4, delete "taxpayer" and insert **"tax delinquent"**.

Page 2, line 4, delete "amnesty" and insert **"evasion"**.

Page 2, line 5, delete "taxpayer" and insert **"tax delinquent"**.

Page 2, line 6, delete "amnesty" and insert **"evasion"**.

Page 2, line 8, delete "taxpayer" and insert **"tax delinquent"**.

Page 2, line 12, delete "taxpayer" and insert **"tax delinquent)"**.

Page 2, line 12, delete "amnesty" and insert **"evasion"**.

Page 2, line 15, delete "amnesty" and insert **"evasion"**.

Page 2, line 16, delete "taxpayer" and insert **"tax delinquent"**.

Page 2, line 17, delete "taxpayer" and insert **"tax delinquent"**.

Page 2, line 20, delete "taxpayer" and insert **"tax delinquent)"**.

Page 2, line 20, delete "amnesty" and insert **"evasion"**.

Page 2, line 32, delete "taxpayer" and insert **"tax delinquent"**.

Page 2, line 33, after "which" delete "amnesty" and insert **"evasion"**.

Page 2, line 33, delete "taxpayer. Amnesty" and insert **"tax delinquent. Evasion"**.

Page 2, line 36, delete "amnesty" and insert **"evasion"**.

Page 2, line 38, delete "amnesty" and insert **"evasion"**.

Page 2, line 40, delete "amnesty" and insert **"evasion"**.

Page 2, line 41, delete "amnesty" and insert **"evasion"**.

Page 4, line 4, delete "amnesty" and insert **"evasion"**.

Page 4, line 7, delete "amnesty" and insert **"evasion"**.

Page 4, line 14, delete "taxpayer" and insert **"tax delinquent"**.

Page 4, line 17, delete "amnesty" and insert **"evasion"**.

Page 4, line 35, delete "taxpayer" and insert **"tax delinquent"**.

Page 4, line 38, delete "taxpayer" and insert **"tax delinquent"**.

Page 5, line 1, delete "taxpayer" and insert **"tax delinquent"**.

Page 5, line 12, delete "amnesty" and insert **"evasion"**.

(Reference is to HB 1004 as printed January 7, 2005.)

PELATH

Motion failed. The bill was ordered engrossed.

### House Bill 1003

Representative Borrer called down House Bill 1003 for second reading. The bill was read a second time by title.

HOUSE MOTION  
(Amendment 1003-1)

Mr. Speaker: I move that House Bill 1003 be amended to read as follows:

Page 16, between lines 9 and 10, begin a new paragraph and insert:

**"SECTION 21. IC 4-22-2-37.1, AS AMENDED BY P.L.1-2004, SECTION 1, AND AS AMENDED BY P.L.23-2004, SECTION 1, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 37.1. (a) This section applies to a rulemaking action resulting in any of the following rules:**

**(1) An order adopted by the commissioner of the Indiana department of transportation under IC 9-20-1-3(d) or IC 9-21-4-7(a) and designated by the commissioner as an emergency rule.**

**(2) An action taken by the director of the department of natural resources under IC 14-22-2-6(d) or IC 14-22-6-13.**

**(3) An emergency temporary standard adopted by the occupational safety standards commission under IC 22-8-1.1-16.1.**

**(4) An emergency rule adopted by the solid waste management board under IC 13-22-2-3 and classifying a waste as hazardous.**

**(5) A rule, other than a rule described in subdivision (6), adopted by the department of financial institutions under IC 24-4.5-6-107 and declared necessary to meet an emergency.**

**(6) A rule required under IC 24-4.5-1-106 that is adopted by the department of financial institutions and declared necessary to**

meet an emergency under IC 24-4.5-6-107.

(7) A rule adopted by the Indiana utility regulatory commission to address an emergency under IC 8-1-2-113.

(8) An emergency rule jointly adopted by the water pollution control board and the budget agency under IC 13-18-13-18.

(9) An emergency rule adopted by the state lottery commission under IC 4-30-3-9.

(10) A rule adopted under IC 16-19-3-5 that the executive board of the state department of health declares is necessary to meet an emergency.

(11) An emergency rule adopted by the Indiana transportation finance authority under IC 8-21-12.

(12) An emergency rule adopted by the insurance commissioner under IC 27-1-23-7.

(13) An emergency rule adopted by the Indiana horse racing commission under IC 4-31-3-9.

(14) An emergency rule adopted by the air pollution control board, the solid waste management board, or the water pollution control board under IC 13-15-4-10(4) or to comply with a deadline required by federal law, provided:

(A) the variance procedures are included in the rules; and

(B) permits or licenses granted during the period the emergency rule is in effect are reviewed after the emergency rule expires.

(15) An emergency rule adopted by the Indiana election commission under IC 3-6-4.1-14.

(16) An emergency rule adopted by the department of natural resources under IC 14-10-2-5.

(17) An emergency rule adopted by the Indiana gaming commission under IC 4-33-4-2, IC 4-33-4-3, or IC 4-33-4-14.

(18) An emergency rule adopted by the alcohol and tobacco commission under IC 7.1-3-17.5, IC 7.1-3-17.7, or IC 7.1-3-20-24.4.

(19) An emergency rule adopted by the department of financial institutions under IC 28-15-11.

(20) An emergency rule adopted by the office of the secretary of family and social services under IC 12-8-1-12.

(21) An emergency rule adopted by the office of the children's health insurance program under IC 12-17.6-2-11.

(22) An emergency rule adopted by the office of Medicaid policy and planning under IC 12-15-41-15.

(23) An emergency rule adopted by the Indiana state board of animal health under IC 15-2.1-18-21.

(24) An emergency rule adopted by the board of directors of the Indiana education savings authority under IC 21-9-4-7.

(25) An emergency rule adopted by the Indiana board of tax review under IC 6-1.1-4-34.

(26) An emergency rule adopted by the department of local government finance under IC 6-1.1-4-33.

(27) An emergency rule adopted by the boiler and pressure vessel rules board under IC 22-13-2-8(c).

(28) An emergency rule adopted by the Indiana board of tax review under IC 6-1.1-4-37(l) or an emergency rule adopted by the department of local government finance under IC 6-1.1-4-36(j) or IC 6-1.1-22.5-20.

**(29) An emergency rule adopted by the board of the Indiana economic development corporation under IC 5-28-5-8.**

(b) The following do not apply to rules described in subsection (a):

(1) Sections 24 through 36 of this chapter.

(2) IC 13-14-9.

(c) After a rule described in subsection (a) has been adopted by the agency, the agency shall submit the rule to the publisher for the assignment of a document control number. The agency shall submit the rule in the form required by section 20 of this chapter and with the documents required by section 21 of this chapter. The publisher shall determine the number of copies of the rule and other documents to be submitted under this subsection.

(d) After the document control number has been assigned, the agency shall submit the rule to the secretary of state for filing. The agency shall submit the rule in the form required by section 20 of this chapter and with the documents required by section 21 of this chapter. The secretary of state shall determine the number of copies of the rule and other documents to be submitted under this subsection.

(e) Subject to section 39 of this chapter, the secretary of state shall:

(1) accept the rule for filing; and

(2) file stamp and indicate the date and time that the rule is accepted on every duplicate original copy submitted.

(f) A rule described in subsection (a) takes effect on the latest of the following dates:

(1) The effective date of the statute delegating authority to the agency to adopt the rule.

(2) The date and time that the rule is accepted for filing under subsection (e).

(3) The effective date stated by the adopting agency in the rule.

(4) The date of compliance with every requirement established by law as a prerequisite to the adoption or effectiveness of the rule.

(g) Subject to subsection (h), IC 14-10-2-5, IC 14-22-2-6, IC 22-8-1.1-16.1, and IC 22-13-2-8(c), *and except as provided in subsection subsections (j) and (k)*, a rule adopted under this section expires not later than ninety (90) days after the rule is accepted for filing under subsection (e). Except for a rule adopted under subsection (a)(14), (a)(25), (a)(26), or (a)(28), the rule may be extended by adopting another rule under this section, but only for one (1) extension period. **The extension period for a rule adopted under subsection (a)(29) may not exceed the period for which the original rule was in effect.** A rule adopted under subsection (a)(14) may be extended for two (2) extension periods. *Subject to subsection (j), a rule adopted under subsection (a)(25), (a)(26), or (a)(28) may be extended for an unlimited number of extension periods.* Except for a rule adopted under subsection (a)(14), for a rule adopted under this section to be effective after one (1) extension period, the rule must be adopted under:

(1) sections 24 through 36 of this chapter; or

(2) IC 13-14-9;

as applicable.

(h) A rule described in subsection (a)(6), (a)(9), or (a)(13) expires on the earlier of the following dates:

(1) The expiration date stated by the adopting agency in the rule.

(2) The date that the rule is amended or repealed by a later rule adopted under sections 24 through 36 of this chapter or this section.

(i) This section may not be used to readopt a rule under IC 4-22-2.5.

*(j) A rule described in subsection (a)(25) or (a)(26) expires not later than January 1, 2006.*

**(k) A rule described in subsection (a)(29) expires on the expiration date stated by the board of the Indiana economic development corporation in the rule."**

Page 37, line 5, delete "2(2)" and insert "2(a)(2)".

Page 38, line 4, after "ethics commission," delete "commission."

Page 38, line 17, after "IC 4-22-2." insert **"However, the board may adopt emergency rules under IC 4-22-2-37.1 to carry out its duties under this article."**

Renumber all SECTIONS consecutively.

(Reference is to HB 1003 as printed January 7, 2005.)

BORROR

The Speaker ordered the roll of the House to be called. Roll Call 9: yeas 51, nays 45. Motion prevailed.

#### HOUSE MOTION (Amendment 1003-14)

Mr. Speaker: I move that House Bill 1003 be amended to read as follows:

Page 38, delete lines 15 through 17, begin a new paragraph and insert:

**"Sec. 8. The corporation shall adopt rules under IC 4-22-2 to carry out its duties under this article."**

Page 132, line 2, reset in roman "under IC 4-22-2".

Page 132, line 3, delete "without complying with IC 4-22-2." and insert ".".

(Reference is to HB 1003 as printed January 7, 2005.)

RESKE

Upon request of Representatives Reske and Stilwell, the Speaker ordered the roll of the House to be called. Roll Call 10: yeas 45,

nays 51. Motion failed.

HOUSE MOTION  
(Amendment 1003-3)

Mr. Speaker: I move that House Bill 1003 be amended to read as follows:

Page 37, line 39, after "5." insert "(a)".

Page 38, line 4, after "ethics commission." delete "commission.".

Page 38, between lines 4 and 5, begin a new paragraph and insert:  
**"(b) Notwithstanding any other provision, the board shall adopt ethics rules under IC 4-22-2 establishing standards governing the solicitation and acceptance by the board, the corporation, an entity owned or administered by the corporation, or an employee of the corporation or an entity owned or administered by the corporation of gifts and donations that:**

- (1) will be used by the board, the corporation, the state, or an entity owned or administered by the corporation; and**
- (2) are made by an individual or entity that has applied for or received a grant, a loan, a tax credit, or another benefit from the corporation or an entity owned or administered by the corporation.**

**(c) The rules adopted under subsection (b) must include at least the following provisions:**

- (1) The rules must prohibit the board, the corporation, an entity owned or administered by the corporation, or an employee of the corporation or an entity owned or administered by the corporation from awarding a grant, a loan, a tax credit, or another benefit to an individual or entity that, during the preceding one (1) year, made a gift or donation that will be used by the board, the corporation, the state, or an entity owned or administered by the corporation.**
- (2) The rules must prohibit the board, the corporation, an entity owned or administered by the corporation, or an employee of the corporation or an entity owned or administered by the corporation from soliciting or accepting a gift or donation from an individual or entity that, during the preceding one (1) year, received a grant, a loan, a tax credit, or another benefit from the corporation or an entity owned or administered by the corporation.**

**(d) The corporation must include on the corporation's Internet web site a prominently displayed link or connection to a list of the recipients of a grant, a loan, a tax credit, or another benefit from the corporation or an entity owned or administered by the corporation. The list:**

- (1) must include:**
  - (A) the type and dollar amount of the grant, loan, tax credit, or other benefit received by the recipient; and**
  - (B) the dollar amount of any contributions made by the recipient to the corporation or an entity owned or administered by the corporation; and**
- (2) must be updated at least monthly."**

Page 193, between lines 1 and 2, begin a new paragraph and insert:  
**"SECTION 135. [EFFECTIVE UPON PASSAGE] (a) The board of the Indiana economic development corporation shall adopt emergency rules under IC 4-22-2-37.1 to implement the ethics rules required under IC 5-28-5-5, as added by this act. A rule adopted under this SECTION must be adopted not later than twenty-one (21) days after the effective date of this act. An emergency rule adopted under this SECTION expires on the date a rule is adopted by the board of the Indiana economic development corporation under IC 4-22-2-24 through IC 4-22-2-36 to implement ethics rules required under IC 5-28-5-5, as added by this act.**

**(b) This SECTION expires July 1, 2007."**

Renumber all SECTIONS consecutively.

(Reference is to HB 1003 as printed January 7, 2005.)

ORENTLICHER

Motion failed.

HOUSE MOTION  
(Amendment 1003-4)

Mr. Speaker: I move that House Bill 1003 be amended to read as follows:

Page 36, line 42, delete "is four years." and insert **"ends on the earlier of:**

- (1) the date that is four (4) years after the member is appointed; or**
- (2) the end of the current term of office of the governor that appointed the member."**

Page 37, line 5, delete "2(2)" and insert **"2(a)(2)"**.

Page 37, line 6, delete "serve at the pleasure of the governor." and insert **"may be removed only for cause."**

(Reference is to HB 1003 as printed January 7, 2005.)

ORENTLICHER

Upon request of Representatives Orentlicher and Dobis, the Speaker ordered the roll of the House to be called. Roll Call 11: yeas 45, nays 51. Motion failed.

HOUSE MOTION  
(Amendment 1003-11)

Mr. Speaker: I move that House Bill 1003 be amended to read as follows:

Page 36, between lines 40 and 41, begin a new paragraph and insert:

**"(c) The members appointed under subsection (a)(2) must include the following:**

- (1) At least two (2) individuals who reside in a county with a population of less than one hundred thousand (100,000).**
- (2) For each county containing a city with a population of one hundred thousand (100,000) or more, at least one (1) individual who resides in the county."**

(Reference is to HB 1003 as printed January 7, 2005.)

DVORAK

Upon request of Representatives Dvorak and Bauer, the Speaker ordered the roll of the House to be called. Roll Call 12: yeas 45, nays 51. Motion failed.

HOUSE MOTION  
(Amendment 1003-9)

Mr. Speaker: I move that House Bill 1003 be amended to read as follows:

Page 36, between lines 40 and 41, begin a new paragraph and insert:

**"(c) The members appointed under subsection (a)(2) must include at least one (1) member from each congressional district in Indiana."**

(Reference is to HB 1003 as printed January 7, 2005.)

CROOKS

Upon request of Representatives Crooks and Stilwell, the Speaker ordered the roll of the House to be called. Roll Call 13: yeas 44, nays 51. Motion failed.

HOUSE MOTION  
(Amendment 1003-6)

Mr. Speaker: I move that House Bill 1003 be amended to read as follows:

Page 38, line 5, after "6." insert "(a)".

Page 38, line 11, after "organizations" delete "." and insert **", teacher organizations, labor organizations, and state and local bar associations. The advisory committee must also include members representing the film industry in Indiana and the steel industry in Indiana.**

**(b) The board shall consider recommendations from the following when making appointments to the advisory committee:**

- (1) The speaker of the house of representatives when making one (1) appointment.**
- (2) The minority leader of the house of representatives when making one (1) appointment.**
- (3) The president pro tempore of the senate when making one (1) appointment.**
- (4) The minority leader of the senate when making one (1) appointment.**
- (5) The president of Indiana University when making one (1) appointment.**
- (6) The president of Purdue University when making one (1) appointment.**

- (7) The president of Indiana State University when making one (1) appointment.  
 (8) The president of Ball State University when making one (1) appointment.  
 (9) The president of the University of Southern Indiana when making one (1) appointment.  
 (10) The president of Ivy Tech State College when making one (1) appointment.  
 (11) The president of Vincennes University when making one (1) appointment."

(Reference is to HB 1003 as printed January 7, 2005.)

RESKE

Upon request of Representatives Reske and Stilwell, the Speaker ordered the roll of the House to be called. Roll Call 14: yeas 44, nays 51. Motion failed.

#### HOUSE MOTION (Amendment 1003-8)

Mr. Speaker: I move that House Bill 1003 be amended to read as follows:

Page 37, line 38, after "retirement fund" insert "**under the eligibility requirements set forth in IC 5-10.2 and IC 5-10.3**".

(Reference is to HB 1003 as printed January 7, 2005.)

MAYS

Motion prevailed.

#### HOUSE MOTION (Amendment 1003-12)

Mr. Speaker: I move that House Bill 1003 be amended to read as follows:

Page 38, between lines 19 and 20, begin a new paragraph and insert:

**"Sec. 10. The following apply to the board, the corporation, and an entity owned or administered by the corporation:**

**(1) IC 4-13.6 (state public works).**

**(2) IC 5-22 (public purchasing)."**

(Reference is to HB 1003 as printed January 7, 2005.)

DVORAK

Upon request of Representatives Dvorak and Dobis, the Speaker ordered the roll of the House to be called. Roll Call 15: yeas 44, nays 50. Motion failed. The bill was ordered engrossed.

## RESOLUTIONS ON FIRST READING

### House Resolution 4

Representatives Bauer and Bosma introduced House Resolution 4:

A RESOLUTION to honor Governor Joseph E. Kernan for his service to the State of Indiana and the Indiana House of Representatives.

*Whereas, After the untimely death of Governor Frank L. O'Bannon, Lieutenant Governor Kernan was sworn in as Indiana's 48th Governor on September 13, 2003;*

*Whereas, Governor Kernan's service confirmed his commitment to Indiana's children and seniors, and other Hoosiers so often lost in today's rough and tumble world. In addition, Governor Kernan's commitment to diversity and inclusion was confirmed by his selection of Katherine Davis as the state's first female lieutenant governor, and David Lewis, an African-American, as the state's clerk of courts;*

*Whereas, Before serving as governor, Governor Kernan was elected lieutenant governor in 1996 and again in 2000. As lieutenant governor, Governor Kernan served as president of the Indiana Senate, director of the Indiana Department of Commerce, commissioner of agriculture, and chair of the Indiana 21st Century Research and Technology Fund;*

*Whereas, As lieutenant governor in 1998, Governor Kernan organized and led the bipartisan Agricultural Crisis Working Group and the Insurance Industry Working Group. In 1999, he launched the Veterans Outreach Initiative, an effort to encourage veterans to make use of state and federal benefits they earned by serving our country. In addition, as Lieutenant Governor, Governor Kernan championed Indiana's 2002 comprehensive tax restructuring plan and the*

*"Energize Indiana" job creation plan, encouraging investment in research and technology, rural development, workforce development, and intermodal transportation;*

*Whereas, Before his service as a statewide elected official, Governor Kernan, was elected mayor of South Bend in 1987, 1991, and 1995. Governor Kernan also served as South Bend city controller from 1981 to 1984; and*

*Whereas, Governor Kernan honorably served his country as a U.S. Naval flight officer during the Vietnam Conflict, and while serving his country was shot down by the enemy and held as a prisoner of war for nearly 11 months, his service earning him the Navy Commendation Medal, two Purple Hearts, and the Distinguished Flying Cross for his service: Therefore,*

*Be it resolved by the House of Representatives  
of the General Assembly of the State of Indiana:*

SECTION 1. That the Indiana House of Representatives, on behalf of the citizens of the State of Indiana, expresses its appreciation and affection for Governor Joe Kernan in recognition of his years of service to this body and the people of the State of Indiana.

SECTION 2. That the Principal Clerk of the House of Representatives shall transmit a copy of this resolution to Governor Kernan and his lovely wife, Maggie.

The resolution was read a first time and adopted by voice vote.

### House Resolution 5

Representatives Bauer and Bosma introduced House Resolution 5:

A HOUSE RESOLUTION honoring Lieutenant Governor Katherine L. Davis for her service to the State of Indiana and the Indiana House of Representatives.

*Whereas, Kathy Davis was called upon by Governor Joseph E. Kernan to be his lieutenant governor nominee, filling the vacancy caused by his succession to the governorship after the untimely death of Governor Frank L. O'Bannon;*

*Whereas, The nomination of Kathy Davis as Indiana's 49th lieutenant governor was unanimously confirmed by the Indiana General Assembly in special session on October 23, 2003;*

*Whereas, Upon the confirmation of Lieutenant Governor Davis, she became the first woman to hold the lieutenant governor's office;*

*Whereas, As Indiana's lieutenant governor, Lieutenant Governor Davis served as president of the Indiana Senate, the director of the Indiana Department of Commerce, the Commissioner of Agriculture, the chair of the Indiana 21st Century Research and Technology Fund, and the chair of Indiana's Counter Terrorism and Security Council;*

*Whereas, In January 2004, Governor Kernan charged Lieutenant Governor Davis with the task, known as the "Peak Performance Project", of working with leaders from across Indiana to review state government from top to bottom and propose changes to make it more accountable and efficient and to make it easier for Hoosiers to get necessary services and programs;*

*Whereas, Before serving as a statewide official, Lieutenant Governor Davis spent four years as Controller for the City of Indianapolis, managed the start-up of the Indiana 21st Century Research and Technology Fund, served as Secretary for the Indiana Family and Social Services Administration, served as State Budget Director, served as Deputy Commissioner of the Indiana Department of Transportation, and worked for Cummins, Inc. of Columbus, Indiana, where she managed assembly and shipping operations; and*

*Whereas, The outstanding career of Lieutenant Governor Davis commenced with her educational achievements of earning an undergraduate degree from the Massachusetts Institute of Technology and a master's degree from Harvard Business School: Therefore,*

*Be it resolved by the House of Representatives  
of the General Assembly of the State of Indiana:*

SECTION 1. That the Indiana House of Representatives, on behalf of the citizens of the State of Indiana, expresses its appreciation in



recognition for the service of Lieutenant Governor Katherine L. Davis to the people of the State of Indiana.

SECTION 2. That the Principal Clerk of the House of Representatives shall transmit a copy of this resolution to Lieutenant Governor Katherine L. Davis and her husband, John Davis.

The resolution was read a first time and adopted by voice vote.

### **OTHER BUSINESS ON THE SPEAKER'S TABLE**

#### **HOUSE MOTION**

Mr. Speaker: I move that Representatives Grubb and Friend be added as coauthors of House Bill 1031.

HEIM

Motion prevailed.

#### **HOUSE MOTION**

Mr. Speaker: I move that Representatives Grubb, Friend, and Dvorak be added as coauthors of House Bill 1032.

HEIM

Motion prevailed.

#### **HOUSE MOTION**

Mr. Speaker: I move that Representatives Grubb, Friend, and Dvorak be added as coauthors of House Bill 1033.

HEIM

Motion prevailed.

#### **HOUSE MOTION**

Mr. Speaker: I move that Representatives Day, Noe, and Klinker be added as coauthors of House Bill 1083.

MURPHY

Motion prevailed.

#### **HOUSE MOTION**

Mr. Speaker: I move that Representative Hinkle be added as coauthor of House Bill 1145.

AVERY

Motion prevailed.

#### **HOUSE MOTION**

Mr. Speaker: I move that Representatives Walorski, J. Smith, and T. Harris be added as coauthors of House Bill 1159.

RUPPEL

Motion prevailed.

Pursuant to House Rule 60, committee meetings were announced.

On the motion of Representative Hoy, the House adjourned at 5:30 p.m., this tenth day of January, 2005, until Tuesday, January 11, 2005, at 1:30 p.m.

BRIAN C. BOSMA

Speaker of the House of Representatives

M. CAROLINE SPOTTS

Principal Clerk of the House of Representatives